CLERK, U.S. DISTRICT COURT

OCT 2 6 2011

CENTRAL DISTRICT OF CALIFORNIA BY

UNITED STATES DISTRICT COURT CENTRAL DISTRICT OF CALIFORNIA

D. LAMONTE HALEY,

Plaintiff,

v.

ORDER RE VOLUNTARY DISMISSAL

OFFICER SFORZINI,

Defendant.

On October 20, 2011, Plaintiff filed a "Motion to Dismiss Claim Rule 41," requesting dismissal of the action. The Court construes this motion as a notice of voluntary dismissal pursuant to Rule 41(a) of the Federal Rules of Civil Procedure. Rule 41(a) permits a plaintiff to dismiss an action voluntarily, without court order, by filing a notice of dismissal at any time before service by an adverse party of an answer or a motion for summary judgment. No defendant has filed any answer or motion for summary judgment in this action. Therefore, under Rule 41(a)(1), the action is deemed dismissed by operation of law. See Commercial Space Management Co. v. Boeing Co., 193 F.3d 1074, 1078 (9th Cir. 1999) ("it is beyond debate that a

dismissal under Rule 41(a)(1) is effective on filing, no court order 1 | is required, the parties are left as though no action had been brought, the defendant can't complain, and the district court lacks jurisdiction to do anything about it"). This dismissal is without prejudice. See Fed. R. Civ. P. 41(a). DATED: (27 26 ANDREW J. GUILFORD UNITED/ STATES DISTRICT JUDGE PRESENTED this 24th day of October, 2011, by: F. EICK UNITED STATES MAGISTRATE JUDGE